

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2311 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE PRADIP KUMAR SARKAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
  5. Whether it is to be circulated to the Civil Judge? : NO

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KANTIBHAI GALABHAI MAYAVANSHI

Versus

DIST EDUCATION OFFICER  
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Appearance:

MR ND NANAVATI for Petitioner  
NOTICE SERVED for Respondent No. 1  
MR MUKUND M DESAI for Respondent No. 2, 3  
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CORAM : MR.JUSTICE PRADIP KUMAR SARKAR

Date of decision: 02/05/2000

ORAL JUDGEMENT

The present application has been filed by Kantibhai Galabhai Mayavanshi praying for a direction to the respondent no.1 to take appropriate action against respondent nos. 2 and 3 for not appointing him to the

post of Assistant Teacher in respondent no.3 School. Learned counsel submitted that earlier the petitioner filed Special Civil Application No. 1945 of 1989 and in accordance with the order passed by this court on 6th July, 1989, the petitioner moved the Tribunal. The Tribunal, after hearing the parties, held that there is no relationship between the petitioner and respondent school as employee and employer, and therefore, he cannot get any relief from the Tribunal.

I have gone through the judgment passed by the Tribunal in Application No. 696 of 1988 (Annexure : A). In the instant case, the petitioner was selected in the interview but no appointment order has been issued by the respondents. I am, therefore, of the view that the Tribunal has correctly held that there is no relationship of employer and employee between the applicant and the respondent school. Learned counsel for the petitioner drew my attention to letter written by the District Education Officer (Annexure : B) to the President, Kharoli Kelavani Mandal -respondent no.2, directing him to appoint the petitioner in the post of Assistant Teacher. However the respondent nos. 2 and 3 did not appoint the petitioner in the post of Assistant Teacher. Learned counsel for the petitioner accordingly submitted that since the petitioner has been recommended by the District Development Officer, he should have been appointed by the respondent no. 2 -Kharoli Kelavani Mandal. It is further submitted by the learned counsel for the petitioner that the petitioner belongs to backward class and he should have been appointed in the quota reserved for backward class. It is true that mere selection does not confer any right to any person for appointment, and therefore, the petitioner is not legally entitled to get any relief by way of direction for his appointment to the post of Assistant Teacher under respondent nos. 2 and 3, but since he belongs to backward class, his case should be sympathetically considered by the respondent nos. 2 and 3 for his appointment to a post of Assistant Teacher. Though the petitioner is not legally entitled to enforce his right by mere selection, but since he belongs to backward class, I am of the view that the respondent nos. 2 and 3 should consider, if any post is vacant for backward class candidate, the case of the petitioner for his appointment to the post of Assistant Teacher. Accordingly, the respondent no.2 is directed to consider the case of the petitioner, if there is vacancy in the quota of backward class candidate, if he fulfills the requisite qualifications.

3. With the above observations and directions, the writ petition is disposed of. Rule is made absolute to the above extent, but I shall make no order as to costs.

Date: 2/5/2000. (P.K.SARKAR, J.)

ccshah